IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6679 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUKHIBEN SOMABHAI RATHOD

Versus

DISTRICT COLLECTOR AHMEDABAD

Appearance:

1. Special Civil Application No. 6679 of 1999

MR PRABHAKAR UPADYAY for Petitioner No. 1

MR LB DABHI, AGP for Respondent No. 1

MR SUREN M SHAH for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 17/06/2004

ORAL JUDGEMENT

1. In this petition the relief that has been sought

by the petitioner is to the effect that respondent no. 1, namely the District Collector, Ahmedabad be directed to recover the amount as per the certificate dated 29th March, 1989 issued by the Commissioner for Workmen's Compensation and as per the direction given by this Court vide order dated 23rd November, 1995 in Special Civil Application No. 829 of 1991, together with penal interest at the rate of 18% from the date of certificate till the date of payment.

1.1. The petitioner has annexed to this petition a copy of the certificate issued by the Commissioner for Workmen's Compensation, Gujarat State, dated 29th March, 1988. From the said certificate, it appears that the respondent no. 1 is directed to recover a sum of Rs.37,240/= from one Mahendrabhai Mohanlal Sharma by way of revenue arrears under the Revenue Act, 1980 for being paid to the present petitioner. This certificate has been issued by the Commissioner for Workmen's Compensation in view of the judgment and award passed in favour of the present petitioner in W.C. Application No. 6 of 1979, wherein Rs.19,200/= were claimed by way of compensation for the personal injury suffered by one deceased Niruben Somabhai.

2. Mr. Prabhakar Upadhyay, learned advocate appearing for the petitioner states that by virtue of the directions issued by this Court in Special Civil Application No. 829 of 1991, recovery has been effected by respondent no. 1 and part of it has been paid to the petitioner and the remaining amount has been deposited in the bank in accordance with the direction issued by the Commissioner for Workmen's Compensation. According to Mr. Upadhyay, at present there is some controversy with regard to accurate calculation of amount of interest that has been accrued in favour of the petitioner. In other words, according to him, respondent no. 1 is still required to recover Rs.5,000/= from the concerned employer towards interest and for that necessary directions are required to be given by this Court in this petition.

3. Considering the aforesaid facts and also the fact that there is some dispute with regard to the amount of interest which may be payable to the petitioner, it cannot be decided in a petition under Article 226 of the Constitution of India. Ofcourse it would be open for the petitioner, if he so desires, to make representation to the respondent no. 1 and bring to his notice the correct calculation and the accurate amount of interest she is entitled to receive. If such representation is made

within one month from today, respondent no. 1 may consider the same and if the claim of the petitioner is found to be proper, he may take steps to recover the balance amount. With this observation, this petition is dismissed. Rule discharged with no order as to costs.

[AKSHAY H. MEHTA, J.]

* Pansala.